REMARKS/ARGUMENTS

The Office Action of March 12, 2003 has been reviewed and carefully considered.

Reconsideration of the present application as herein amended, is respectfully requested.

By the amendments above, original claims 1-9 have been cancelled, without prejudice, and re-presented as claims 10-19, 22 and 23. Claims 20, 21, 24 and 25 have also been added. The specification has in addition been amended to more clearly present the original subject matter by removing legal phraseology, correcting typographical and syntactical errors, and conforming references to a single object through use of a single consistent term. For example, repeated uses of the legal term "said" in the specification have been deleted, and references to the "multi-well plate cover assembly", "cover", "assembly", "plate cover" and "multi-well plate cover" have been standardized as "multi-well plate cover". No new matter has been added.

In the pending Office Action, the Examiner objected to the drawings under 37 C.F.R. § 1.83(a) because, allegedly, not every element appearing in the claims was shown in the drawing. While applicants note that every element of the claims is, in fact, shown in the drawings, the drawing have nevertheless been amended for clarity to expressly include individual reference numerals for all of the claimed elements shown therein. It is respectfully submitted, therefore, that this objection should be withdrawn.

The Examiner also objected to the specification as failing to provide antecedent basis for two terms used in the claims. By the amendments presented herein, the specification and claims have been correspondingly amended to conform the terms used in the claims to those

used in the specification, and it is therefore submitted that this objection should likewise be withdrawn.

Next, the Examiner rejected claims 1-9 under 35 U.S.C. § 112 (2d paragraph) as indefinite for failing to particularly point out and distinctly claim the invention. It is believed that the within amendments to the claims address all of the Examiner's bases for rejection in this regard.

The Examiner substantively rejected claims 1 and 7 under 35 U.S.C. § 102(e) as anticipated by United States Patent. No. 6,436,351 to Gubernator, *et al.*; claims 1-3, 5-7 and 9 under 35 U.S.C. § 102(e) as anticipated by United States Patent No. 6,159,368 (Moring, *et al.*); claims 2, 3, 5 and 6 under 35 U.S.C. § 103(a) as obvious over Moring, *et al.* in view of United States Patent No. 6,486,401 (Warhurst, *et al.*); claims 3-5 under 35 U.S.C. § 103(a) as obvious over Moring, *et al.* in view of United States Patent No. 2,825,466 (Shnitzler, *et al.*); claim 4 under 35 U.S.C. § 103(a) as obvious over Moring, *et al.*, in view of United States Patent No. 6,426,050 (Pham, *et al.*), United States Patent No. 6,254,833 (Shumate, *et al.*) or United States Patent No. 6,361,746 (Wlodarski); claim 7 under 35 U.S.C. § 103(a) as obvious over Moring, *et al.*; and claim 8 under 35 U.S.C. § 103(a) as obvious over Moring, *et al.* in view of United States Patent No. 6,379,626 (Munson, *et al.*) and United States Patent No. 6,103,199 (Bjornson, *et al.*).

Applicants have carefully considered the Examiner's rejections, and the Examiner's explanations submitted in support thereof, and for the following reasons believe that the invention as now claimed is patentably distinct from the references cited by the Examiner, taken alone or in any combination.

The present invention is directed to a cover for a multi-well plate. The cover has two major elements: a flexible lid and a gasket attached to the underside of the lid. The lid

includes integral side walls which include structure for attaching the lid to the plate. The resiliently flexible construction and shape of the lid provide a means for applying a compressive force to the gasket so that it fully engages the surface of the multi-well plate and thereby seals the wells defined in the plate. Since the gasket is not adhered to the plate, it may be easily removed from its compressed abutment with the plate surface without leaving any residue on the plate surface or carrying away from the plate any contaminant from the wells. Furthermore, the newly presented claims each expressly recite that the lid is formed of a resiliently flexible material, and with respect to claims 10-21, 23 and 24, is curved, so that when the side walls engage the multi-well plate to secure the cover to the plate, the lid deformedly compresses the gasket to seal the wells.

Both Gubernator, *et al.*, and Moring, *et al.* disclose assemblies of covers for multi-well plates. In *both* references, however, the upper portion, which the Examiner characterizes as the "lid", is *rigid* and *flat*. There is no teaching or suggestion in either reference that the lid itself may be formed of a resilient material and shaped to provide a spring-like compressive force by virtue of a non-linear upper portion and its resiliently flexible nature. Moring, *et al.* even *expressly* state that cover 150 thereof, which the Examiner has compared to the claimed lid, is *substantially rigid* (Col. 27, lies 66-67; col. 28, lines 15-17). The Examiner has acknowledged this recitation, but taken the position that "substantially rigid" means "flexible" (¶ 15 of the Office Action). It is respectfully solicited that this is a misreading of the actual teachings of Moring, *et al.* Even if, *arguendo,* "substantially rigid" is read or determine "flexible", a spring is not merely "flexible" but, rather, resiliently flexible, and Moring *et al.* utterly fail to teach or suggest resilient flexibility of their cover. Moreover, Moring, *et al.* teach the desirability of *increasing* the rigidity of the cover by providing integral beams 172, 174

therein (col. 28, lines 4-8: "To evenly distribute the downward force across undersurface 156, integral beams, such as 172 and 174, can extend laterally and/or longitudinally across the top surface of upper shell portion 154, *providing increased rigidity*." -- emphasis supplied). Thus, Moring, *et al.* do not fairly teach or suggest the use of a *resiliently flexible* material to form the upper portion of its lid.

Indeed, the Examiner has cited no reference as teaching the use of a *resliently flexible* lid as is now claimed, and it is believed that no prior art reference contains any such teaching or suggestion of this aspect of the invention. For this reason, alone, therefore, it is respectfully submitted that the invention as claimed is patentably distinct over the art of record.

Furthermore, no cited reference teaches or suggests the use of a lid having a *curved* upper portion for providing deformed clamping of the lid and compression of an associated gasket to seal closed the wells in the multi-well plate. This difference provides yet another basis for allowance of the claims.

The primary references cited by the Examiner merely teach the use of a rigid, flat lid to seal the top of the multi-well structure, with no means being provided for compressing a gasket with a spring force provided by the material and construction of the lid itself, as opposed to the action of the side-mounted attachment means shown in each of the primary references.

For all of these reasons, therefore, it is respectfully submitted that the invention as claimed is patentably distinct over the references upon which the Examiner has relied, taken alone or in any combination. Early and favorable action is therefore respectfully solicited.

It is believed that no additional fees or charges are required at this time in connection with the present application; however, if any such fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

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